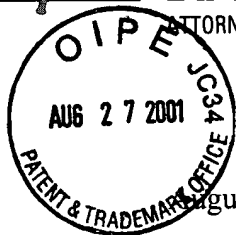




FOLEY
HOAG
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August 23, 2001

Assistant Commissioner of Patents
Washington, DC 20231

James T. Olesen, Ph.D.
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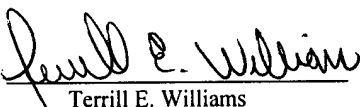
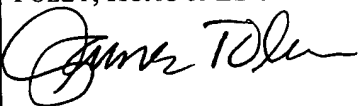
Re: U.S. Patent Application No: 09/578,534
Entitled: *Diagnostics and Therapeutics for Restenosis*
Filed: May 24, 2000
By: Crossman et al.
Atty Ref: MSA-017.02

Dear Sir:

Enclosed please find the following documents submitted by the Applicants in the above-referenced application:

1. Response to Restriction Requirement;
2. Petition for One-Month Extension of Time;
3. Submission of Formal Drawings;
4. Formal Drawings - Figures 1 - 10 (19 sheets); and
5. Return Receipt Postcard.

The Commissioner is hereby authorized to charge any under-payments or credit any over-payments to our Deposit Account No. 06-1448.

<p align="center">Certificate of First Class Mailing</p> <p>I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail, with sufficient postage prepaid, in an envelope addressed to: Assistant Commissioner for Patents, Washington, DC 20231 on the date set forth below:</p> <p><u>August 23, 2001</u> Date</p> <p> Terrill E. Williams</p>	<p>Respectfully submitted, FOLEY, HOAG & ELIOT LLP</p> <p></p> <p>James T. Olesen, Ph.D. Reg. No. 46,967 Agent for Applicants Customer ID No. 25181</p>
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Attorney Docket No.: MSA-017.02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Crossman, Duff, Francis, Kornman &)
Stephenson)
Serial No.: 09/578,534) Group Art Unit: 1655
Filed: May 24, 2000)
For: *Diagnostics and Therapeutics for Restenosis*) Examiner: Myers, C.
)
)

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

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August 23, 2001
Date of Signature
and of Mail Deposit

Terrill E. Williams
Terrill E. Williams

Assistant Commissioner of Patents
Washington, D.C. 20231

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

In response to the Restriction Requirement dated July 5, Applicants provisionally elect with traverse the invention set forth in Group I, claims 1-7 and 77-79, "drawn to methods to detect a predisposition to developing restenosis." The time for responding to this Restriction Requirement has been extended by the accompanying petition for a one month extension of time and fee. Applicants detailed reasons for traversing the Restriction Requirement are stated below.

In the restriction requirement under 35 U.S.C. § 121, the Examiner alleges that there are a total of eight distinct inventions. In response to this Restriction Requirement, Applicants have elected the Group I claims with traverse. Applicants contend that no undue burden is placed upon the Examiner to search all Groups as listed in the Restriction Requirement (M.P.E.P. § 803). The Examiner's attention is directed to M.P.E.P. § 803, which states that:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Thus, for a restriction requirement to be valid, the Examiner must establish the following two Criteria:

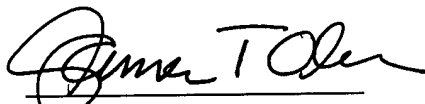
- (1) the existence of independent and distinct inventions (35 U.S.C. § 121); and
- (2) that the search and examination of the entire application cannot be made without serious burden (M.P.E.P. § 803).

In particular, Applicants respectfully submit that the Examiner has not set forth a convincing argument that the search and examination of both the claims of Group I, "drawn to a method to detect a predisposition to developing restenosis," and the claims of Groups II, "drawn to kits comprising primers," would be unduly burdensome. In particular, Applicants note that examination of both of these groups could be conducted with a single prior art search. Therefore, it is Applicants belief that the Restriction Requirement is in error and the Examiner has not shown that a serious burden would be required to examine the claims of both Groups I and II together.

Should there be any questions after review of this paper, the Examiner is invited to contact Mr. Olesen at (617) 832-1764. If there are any other fees due in connection with the filing of this response, please charge the fees to our **Deposit Account No. 06-1448**.

Respectfully submitted,
FOLEY, HOAG, & ELIOT

August 23, 2001


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